

**ALASKA DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
MUNICIPAL ENTITLEMENTS**

**FINAL FINDING AND DECISION
CONVEYANCE OF STATE LAND UNDER AS 29.65**

KENAI PENINSULA BOROUGH MUNICIPAL LAND ENTITLEMENT SELECTIONS ALASKA DIVISION OF LANDS (ADL) 232475
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I. SUPPLEMENT STATEMENT

This Final Finding and Decision (FFD or decision) supplements the Corrected Preliminary Decision (PD) issued on March 10, 2017 for the proposed actions, which are incorporated herein, except as modified or clarified by this FFD. The attached maps to this FFD depict the selections that are the focus of this decision.

II. RECOMMENDED ACTION

The Department of Natural Resources (DNR) has determined in this FFD that Alternative 3 described in the PD is the preferred action since it best fits the intent and requirements of the Municipal Entitlement Act. This decision covers approximately 1,676 acres, approving 1,524 acres for conveyance and transfer of management authority, and rejecting 152 acres.

There are no changes between the PD and the FFD.

III. AUTHORITY

The authority for conveyance of state land is pursuant to AS 29.65 and the authority for the Final Finding and Decision is pursuant to AS 38.05.035(e).

IV. PUBLIC NOTICE

The public noticing requirements under AS 38.05.945 were met. The notice for the PD was published on the Alaska Online Public Notice System at: <http://dnr.alaska.gov/commis/pic/pubnotfrm.htm> and on the State Municipal Entitlement site at: <http://dnr.alaska.gov/mlw/muni/> on March 10, 2017. The PD and associated maps were attachments to the public notice and comments were to be received on or before April 10, 2017 to ensure consideration.

The public notice was also mailed to Postmasters with a request to post at Post Offices in Anchor Point, Clam Gulch, Cooper Landing, Fritz Creek, Halibut Cove, Homer, Hope, Kachemak, Kasilof, Kenai, Moose Pass, Nanwalek, Nikiski, Nikolaevsk, Ninilchik, Port Graham, Seldovia, Seward, Soldotna, Sterling and Tyonek. Additionally, the notice was sent to the Kenai Peninsula Borough and to tribal governments.

V. DNR RESPONSE TO COMMENTS

The following are comments to the PD, and DNR's response.

Comments from Department of Fish and Game (ADF&G), Division of Wildlife Conservation:

ADF&G has no additional comments on the Preliminary Decision for KPB's municipal entitlement selections.

Response: Acknowledged.

Comments from Chugach Electric Association:

Chugach Electric Association would like to comment on the Public Notice, ADL 232475, state lands recommended for conveyance to the Kenai Peninsula Borough (KPB) relative to our existing electrical facilities located in Region 2.

Please note the following:

Summit Lake – Sec 5, T6N, R1W; ASLS 2000-01, CEA Communications Tract A, eastern portion. This area recommended for conveyance has been used as a helipad for access to Chugach's Summit Lake Microwave Site (reference ADL 227467), located on lands since conveyed to KPB (ADL 227985). From our perspective, conveying the remaining portion of Tract A to KPB would presumably simplify our effort to obtain authorization for the entire microwave site from a single entity, KPB.

Hope Y and Canyon Creek – Reference ADL 230367-E and 231686-B. DNR is in the last stage of authorizing these easements for Chugach's transmission line and access roads in this area. Final easements are anticipated prior to issuance of ADL 232475. We anticipate any conveyance here should be made subject to those final easements.

Response: Acknowledged. DNR has issued final decisions on the above easements.

VI. DISCUSSION AND FINAL FINDING AND DECISION

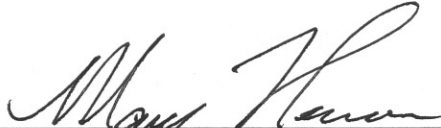
Through this Final Finding and Decision, DNR determines that it is in the best interest of the state to convey 1,524 acres of state land with management authority transferred to the borough upon the effective date of this decision. There are no overriding state interests in retaining these selections and the conveyance to the KPB is consistent with the requirements for conveyance under AS 29.65, and the management intent requirements of the Kenai Area Plan.


This decision rejects the conveyance of 152 acres. The reasons for rejection vary in that the land selections are either not state owned, not VUU land, or a significant state interest exists that warrants retaining the land in state ownership.

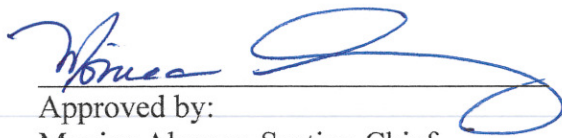
The following are the findings relative to this decision. I find that:

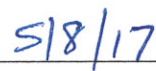
1. It is appropriate to convey approximately 1,524 acres of state land to Kenai Peninsula Borough. The state's interest in retaining these lands does not outweigh the borough's interest in obtaining them.
2. It is appropriate to reject approximately 40 acres of borough selected land because the land does not belong to the state and cannot be conveyed.
3. It is appropriate to reject approximately 24 acres of borough selected land because it is not VUU and thus is ineligible for conveyance.
4. It is appropriate to reject approximately 88 acres of borough selected land because the state's interest in retaining the lands outweighs the borough's interest in obtaining them. These interests include public access, cultural resources, and state facility concerns.
5. It is appropriate to convey the balance of ASLS 2001-01 (.69 ac) to the borough to correct an omission from a previous decision.
6. It is appropriate to convey the sliver of land (1 ac) previously rejected by the state that was part of a buffer to Trail River, because the borough is better suited to manage this small piece of land since it is surrounded by borough owned lands. This action would convey the balance of ASLS 86-6 and make this surveyed parcel whole.

The findings presented above have been reviewed and considered. The Public Notice has been accomplished in accordance with AS 38.05.945. The case files have been found to be complete and the requirements of all applicable statutes have been satisfied. I find that it is in the best interest of the State to proceed with the conveyances identified in this FFD to the borough under the authority of AS 29.65 and reject certain borough land selections for those reasons identified in this decision.


Recommended by:
Mary Hermon,
Natural Resource Specialist
Municipal Entitlements


Date


Approved by:
Monica Alvarez, Section Chief
Resource Assessment & Development


Date

ATTACHMENTS

Vicinity Map: Regions: 2, 5, 7, 8 & 9

Maps: Region 2 - Hope Y & Canyon Creek

Region 2 - Summit Lake

Region 2 - Quartz Creek

Region 2 - Crown Point

Region 5 - Kalifornsky Beach Road

Region 5 - Wik Lake
Region 7 - North Fork
Region 7 - Happy Creek
Region 8 - Bear Cove
Region 9 - Seldovia Point

APPEAL PROVISION

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received in writing within 20 calendar days after the date of the issuance of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to Andrew T. Mack, Commissioner, Department of Natural Resources, 550 West 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 907-269-8918, or sent by electronic mail to dnr.appeals@alaska.gov.

If no appeal is filed by the appeal deadline, this decision goes into effect as a final administrative order and decision of the department on the 31st day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to the Superior Court (11 AAC 02.020(a) and (b)). A copy of 11 AAC 02 may be obtained from any regional office of the Department of Natural Resources or at: <http://www.akleg.gov/basis/aac.asp>.